

AMENDED IN SENATE AUGUST 21, 2014

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN ASSEMBLY MAY 1, 2014

AMENDED IN ASSEMBLY APRIL 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2723**

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**Introduced by Assembly Member Medina  
(Coauthor: Assembly Member Fox)**

February 21, 2014

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An act to amend Sections 11340, 11342.535, 11342.610, 11346.3, and 11346.5 of the Government Code, relating to administrative procedure.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as amended, Medina. Administrative procedure: small businesses.

The Administrative Procedure Act governs the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

Existing law requires the notice of proposed adoption, amendment, or repeal of a regulation to include, among other things, a description of all cost impacts, known to the agency at the time the notice of the proposed action is submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Existing law defines “cost impact” as the amount of reasonable range of direct costs, or a

description of the type and extent of direct costs, that a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

This bill would define “cost impact” to include those direct costs that a representative private person or sole proprietorship, small business, and business necessarily incurs in reasonable compliance with the proposed action.

Existing law requires every state agency to prepare and submit to the Office of Administrative Law a final statement of reasons with the adopted regulation that includes, among other things, an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, as defined. Under existing law, a “small business” does not include, among others, a landscape architect, an architect, or a building designer or an entity organized as a nonprofit institution.

This bill would instead provide that a “small business” does not include a landscape architect, an architect, or a building designer with 50 or more employees or an entity organized as a nonprofit institution with more than 100 employees.

Existing law requires each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, to prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance. Existing law requires the standardized regulatory impact analysis to address, among other things, the creation of new businesses or the elimination of existing businesses within the state.

This bill would require the analysis to address, the creation of new businesses or the elimination of existing businesses within the state, including the impact on sole proprietorships and small businesses, as defined.

If a state agency, in proposing to adopt, amend, or repeal any administrative regulation, makes an initial determination that the action may have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, existing law requires the state agency to include certain information in the notice of the proposed action, including, but not limited to, identification of the types of businesses that would be affected.

This bill would require that information to additionally include the size of businesses that would be affected.

*This bill would incorporate additional changes to Section 11346.3 of the Government Code proposed by AB 1711 that would become operative if this bill and AB 1711 are both chaptered and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11340 of the Government Code is  
2     amended to read:  
3     11340. The Legislature finds and declares as follows:  
4     (a) There has been an unprecedented growth in the number of  
5     administrative regulations in recent years.  
6     (b) The language of many regulations is frequently unclear and  
7     unnecessarily complex, even when the complicated and technical  
8     nature of the subject matter is taken into account. The language is  
9     often confusing to the persons who must comply with the  
10    regulations.  
11    (c) Substantial time and public funds have been spent in adopting  
12    regulations, the necessity for which has not been established.  
13    (d) The imposition of prescriptive standards upon private persons  
14    and entities through regulations where the establishment of  
15    performance standards could reasonably be expected to produce  
16    the same result has placed an unnecessary burden on California  
17    citizens and discouraged innovation, research, and development  
18    of improved means of achieving desirable social goals.  
19    (e) There exists no central office in state government with the  
20    power and duty to review regulations to ensure that they are written  
21    in a comprehensible manner, are authorized by statute, and are  
22    consistent with other law.  
23    (f) Correcting the problems that have been caused by the  
24    unprecedented growth of regulations in California requires the  
25    direct involvement of the Legislature as well as that of the  
26    executive branch of state government.  
27    (g) The complexity and lack of clarity in many regulations put  
28    small businesses, which do not have the resources to hire experts  
29    to assist them, at a distinct disadvantage. Given the importance of  
30    small businesses within the California economy, it is especially  
31    important that regulations that may have significant impacts on

1 the private sectors be evaluated to determine the potential impact  
2 on these smaller size businesses.

3 SEC. 2. Section 11342.535 of the Government Code is amended  
4 to read:

5 11342.535. “Cost impact” means the amount of reasonable  
6 range of direct costs, or a description of the type and extent of  
7 direct costs, that a representative private person or sole  
8 proprietorship, small business, and business necessarily incurs in  
9 reasonable compliance with the proposed action.

10 SEC. 3. Section 11342.610 of the Government Code is amended  
11 to read:

12 11342.610. (a) “Small business” means a business activity in  
13 agriculture, general construction, special trade construction, retail  
14 trade, wholesale trade, services, transportation and warehousing,  
15 manufacturing, generation and transmission of electric power, or  
16 a health care facility, unless excluded in subdivision (b), that is  
17 both of the following:

18 (1) Independently owned and operated.

19 (2) Not dominant in its field of operation.

20 (b) “Small business” does not include the following professional  
21 and business activities:

22 (1) A financial institution including a bank, a trust, a savings  
23 and loan association, a thrift institution, a consumer finance  
24 company, a commercial finance company, an industrial finance  
25 company, a credit union, a mortgage and investment banker, a  
26 securities broker-dealer, or an investment adviser.

27 (2) An insurance company, either stock or mutual.

28 (3) A mineral, oil, or gas broker.

29 (4) A subdivider or developer.

30 (5) An entity organized as a nonprofit institution with more than  
31 100 employees.

32 (6) An entertainment activity or production, including a motion  
33 picture, a stage performance, a television or radio station, or a  
34 production company.

35 (7) A utility, a water company, or a power transmission company  
36 generating and transmitting more than 4.5 million kilowatthours  
37 annually.

38 (8) A petroleum producer, a natural gas producer, a refiner, or  
39 a pipeline.

40 (9) A manufacturing enterprise exceeding 250 employees.

1 (10) A health care facility exceeding 150 beds or one million  
2 five hundred thousand dollars (\$1,500,000) in annual gross receipts.

3 (11) A landscape architect, an architect, or a building designer  
4 with 50 or more employees.

5 (c) “Small business” does not include the following business  
6 activities:

7 (1) Agriculture, where the annual gross receipts exceed one  
8 million dollars (\$1,000,000).

9 (2) General construction, where the annual gross receipts exceed  
10 nine million five hundred thousand dollars (\$9,500,000).

11 (3) Special trade construction, where the annual gross receipts  
12 exceed five million dollars (\$5,000,000).

13 (4) Retail trade, where the annual gross receipts exceed two  
14 million dollars (\$2,000,000).

15 (5) Wholesale trade, where the annual gross receipts exceed  
16 nine million five hundred thousand dollars (\$9,500,000).

17 (6) Services, where the annual gross receipts exceed two million  
18 dollars (\$2,000,000).

19 (7) Transportation and warehousing, where the annual gross  
20 receipts exceed one million five hundred thousand dollars  
21 (\$1,500,000).

22 SEC. 4. Section 11346.3 of the Government Code is amended  
23 to read:

24 11346.3. (a) State agencies proposing to adopt, amend, or  
25 repeal any administrative regulation shall assess the potential for  
26 adverse economic impact on California business enterprises and  
27 individuals, avoiding the imposition of unnecessary or unreasonable  
28 regulations or reporting, recordkeeping, or compliance  
29 requirements. For purposes of this subdivision, assessing the  
30 potential for adverse economic impact shall require agencies, when  
31 proposing to adopt, amend, or repeal a regulation, to adhere to the  
32 following requirements, to the extent that these requirements do  
33 not conflict with other state or federal laws:

34 (1) The proposed adoption, amendment, or repeal of a regulation  
35 shall be based on adequate information concerning the need for,  
36 and consequences of, proposed governmental action.

37 (2) The state agency, prior to submitting a proposal to adopt,  
38 amend, or repeal a regulation to the office, shall consider the  
39 proposal’s impact on business, with consideration of industries  
40 affected including the ability of California businesses to compete

1 with businesses in other states. For purposes of evaluating the  
2 impact on the ability of California businesses to compete with  
3 businesses in other states, an agency shall consider, but not be  
4 limited to, information supplied by interested parties.

5 (3) An economic assessment prepared pursuant to this  
6 subdivision for a proposed regulation that is not a major regulation  
7 or that is a major regulation proposed prior to November 1, 2013,  
8 shall be prepared in accordance with subdivision (b). An economic  
9 assessment prepared pursuant to this subdivision for a major  
10 regulation proposed on or after November 1, 2013, shall be  
11 prepared in accordance with subdivision (c), and shall be included  
12 in the initial statement of reasons as required by Section 11346.2.

13 (b) (1) All state agencies proposing to adopt, amend, or repeal  
14 a regulation that is not a major regulation or that is a major  
15 regulation proposed prior to November 1, 2013, shall prepare an  
16 economic impact assessment that assesses whether and to what  
17 extent it will affect the following:

18 (A) The creation or elimination of jobs within the state.

19 (B) The creation of new businesses or the elimination of existing  
20 businesses within the state.

21 (C) The expansion of businesses currently doing business within  
22 the state.

23 (D) The benefits of the regulation to the health and welfare of  
24 California residents, worker safety, and the state's environment.

25 (2) This subdivision does not apply to the University of  
26 California, the Hastings College of the Law, or the Fair Political  
27 Practices Commission.

28 (3) Information required from state agencies for the purpose of  
29 completing the assessment may come from existing state  
30 publications.

31 (c) (1) Each state agency proposing to adopt, amend, or repeal  
32 a major regulation on or after November 1, 2013, shall prepare a  
33 standardized regulatory impact analysis in the manner prescribed  
34 by the Department of Finance pursuant to Section 11346.36. The  
35 standardized regulatory impact analysis shall address all of the  
36 following:

37 (A) The creation or elimination of jobs within the state.

38 (B) The creation of new businesses or the elimination of existing  
39 businesses within the state, including the impact on sole

1 proprietorships and small businesses, as defined in Section  
2 11342.610.

3 (C) The competitive advantages or disadvantages for businesses  
4 currently doing business within the state.

5 (D) The increase or decrease of investment in the state.

6 (E) The incentives for innovation in products, materials, or  
7 processes.

8 (F) The benefits of the regulations, including, but not limited  
9 to, benefits to the health, safety, and welfare of California residents,  
10 worker safety, and the state's environment and quality of life,  
11 among any other benefits identified by the agency.

12 (2) This subdivision shall not apply to the University of  
13 California, the Hastings College of the Law, or the Fair Political  
14 Practices Commission.

15 (3) Information required from state agencies for the purpose of  
16 completing the analysis may be derived from existing state, federal,  
17 or academic publications.

18 (d) Any administrative regulation adopted on or after January  
19 1, 1993, that requires a report shall not apply to businesses, unless  
20 the state agency adopting the regulation makes a finding that it is  
21 necessary for the health, safety, or welfare of the people of the  
22 state that the regulation apply to businesses.

23 (e) Analyses conducted pursuant to this section are intended to  
24 provide agencies and the public with tools to determine whether  
25 the regulatory proposal is an efficient and effective means of  
26 implementing the policy decisions enacted in statute or by other  
27 provisions of law in the least burdensome manner. Regulatory  
28 impact analyses shall inform the agencies and the public of the  
29 economic consequences of regulatory choices, not reassess  
30 statutory policy. The baseline for the regulatory analysis shall be  
31 the most cost-effective set of regulatory measures that are equally  
32 effective in achieving the purpose of the regulation in a manner  
33 that ensures full compliance with the authorizing statute or other  
34 law being implemented or made specific by the proposed  
35 regulation.

36 (f) Each state agency proposing to adopt, amend, or repeal a  
37 major regulation on or after November 1, 2013, and that has  
38 prepared a standardized regulatory impact analysis pursuant to  
39 subdivision (c), shall submit that analysis to the Department of  
40 Finance upon completion. The department shall comment, within

1 30 days of receiving that analysis, on the extent to which the  
2 analysis adheres to the regulations adopted pursuant to Section  
3 11346.36. Upon receiving the comments from the department, the  
4 agency may update its analysis to reflect any comments received  
5 from the department and shall summarize the comments and the  
6 response of the agency along with a statement of the results of the  
7 updated analysis for the statement required by paragraph (10) of  
8 subdivision (a) of Section 11346.5.

9 *SEC. 4.5. Section 11346.3 of the Government Code is amended*  
10 *to read:*

11 11346.3. (a) ~~State agencies~~ *A state agency* proposing to adopt,  
12 amend, or repeal any administrative regulation shall assess the  
13 potential for adverse economic impact on California business  
14 enterprises and individuals, avoiding the imposition of unnecessary  
15 or unreasonable regulations or reporting, recordkeeping, or  
16 compliance requirements. For purposes of this subdivision,  
17 assessing the potential for adverse economic impact shall require  
18 agencies, when proposing to adopt, amend, or repeal a regulation,  
19 to adhere to the following requirements, to the extent that these  
20 requirements do not conflict with other state or federal laws:

21 (1) The proposed adoption, amendment, or repeal of a regulation  
22 shall be based on adequate information concerning the need for,  
23 and consequences of, proposed governmental action.

24 (2) The state agency, prior to submitting a proposal to adopt,  
25 amend, or repeal a regulation to the office, shall consider the  
26 proposal's impact on business, with consideration of industries  
27 affected including the ability of California businesses to compete  
28 with businesses in other states. For purposes of evaluating the  
29 impact on the ability of California businesses to compete with  
30 businesses in other states, an agency shall consider, but not be  
31 limited to, information supplied by interested parties.

32 (3) An economic *impact* assessment prepared pursuant to this  
33 subdivision for a proposed regulation that is not a major regulation  
34 or that is a major regulation proposed prior to November 1, 2013,  
35 shall be prepared in accordance with subdivision ~~(b)~~: *(b), and shall*  
36 *be included in the initial statement of reasons as required by*  
37 *Section 11346.2.* An economic assessment prepared pursuant to  
38 this subdivision for a major regulation proposed on or after  
39 November 1, 2013, shall be prepared in accordance with



subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) ~~All~~ ~~A state agencies~~ *agency* proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall prepare an economic impact assessment that assesses whether and to what extent it will affect the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The expansion of businesses currently doing business within the state.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision does not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from ~~a state agencies~~ *agency* for the purpose of completing the assessment may come from existing state publications.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the ~~state~~: *state, including the impact on sole proprietorships and small businesses, as defined in Section 11342.610.*

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

(D) The increase or decrease of investment in the state.

(E) The incentives for innovation in products, materials, or processes.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

1 (2) This subdivision shall not apply to the University of  
2 California, the Hastings College of the Law, or the Fair Political  
3 Practices Commission.

4 (3) Information required from state agencies for the purpose of  
5 completing the analysis may be derived from existing state, federal,  
6 or academic publications.

7 (d) Any administrative regulation adopted on or after January  
8 1, 1993, that requires a report shall not apply to businesses, unless  
9 the state agency adopting the regulation makes a finding that it is  
10 necessary for the health, safety, or welfare of the people of the  
11 state that the regulation apply to businesses.

12 (e) Analyses conducted pursuant to this section are intended to  
13 provide agencies and the public with tools to determine whether  
14 the regulatory proposal is an efficient and effective means of  
15 implementing the policy decisions enacted in statute or by other  
16 provisions of law in the least burdensome manner. Regulatory  
17 impact analyses shall inform the agencies and the public of the  
18 economic consequences of regulatory choices, not reassess  
19 statutory policy. The baseline for the regulatory analysis shall be  
20 the most cost-effective set of regulatory measures that are equally  
21 effective in achieving the purpose of the regulation in a manner  
22 that ensures full compliance with the authorizing statute or other  
23 law being implemented or made specific by the proposed  
24 regulation.

25 (f) Each state agency proposing to adopt, amend, or repeal a  
26 major regulation on or after November 1, 2013, and that has  
27 prepared a standardized regulatory impact analysis pursuant to  
28 subdivision (c), shall submit that analysis to the Department of  
29 Finance upon completion. The department shall comment, within  
30 30 days of receiving that analysis, on the extent to which the  
31 analysis adheres to the regulations adopted pursuant to Section  
32 11346.36. Upon receiving the comments from the department, the  
33 agency may update its analysis to reflect any comments received  
34 from the department and shall summarize the comments and the  
35 response of the agency along with a statement of the results of the  
36 updated analysis for the statement required by paragraph (10) of  
37 subdivision (a) of Section 11346.5.

38 SEC. 5. Section 11346.5 of the Government Code is amended  
39 to read:

1 11346.5. (a) The notice of proposed adoption, amendment, or  
2 repeal of a regulation shall include the following:

3 (1) A statement of the time, place, and nature of proceedings  
4 for adoption, amendment, or repeal of the regulation.

5 (2) Reference to the authority under which the regulation is  
6 proposed and a reference to the particular code sections or other  
7 provisions of law that are being implemented, interpreted, or made  
8 specific.

9 (3) An informative digest drafted in plain English in a format  
10 similar to the Legislative Counsel's digest on legislative bills. The  
11 informative digest shall include the following:

12 (A) A concise and clear summary of existing laws and  
13 regulations, if any, related directly to the proposed action and of  
14 the effect of the proposed action.

15 (B) If the proposed action differs substantially from an existing  
16 comparable federal regulation or statute, a brief description of the  
17 significant differences and the full citation of the federal regulations  
18 or statutes.

19 (C) A policy statement overview explaining the broad objectives  
20 of the regulation and the specific benefits anticipated by the  
21 proposed adoption, amendment, or repeal of a regulation, including,  
22 to the extent applicable, nonmonetary benefits such as the  
23 protection of public health and safety, worker safety, or the  
24 environment, the prevention of discrimination, the promotion of  
25 fairness or social equity, and the increase in openness and  
26 transparency in business and government, among other things.

27 (D) An evaluation of whether the proposed regulation is  
28 inconsistent or incompatible with existing state regulations.

29 (4) Any other matters as are prescribed by statute applicable to  
30 the specific state agency or to any specific regulation or class of  
31 regulations.

32 (5) A determination as to whether the regulation imposes a  
33 mandate on local agencies or school districts and, if so, whether  
34 the mandate requires state reimbursement pursuant to Part 7  
35 (commencing with Section 17500) of Division 4.

36 (6) An estimate, prepared in accordance with instructions  
37 adopted by the Department of Finance, of the cost or savings to  
38 any state agency, the cost to any local agency or school district  
39 that is required to be reimbursed under Part 7 (commencing with  
40 Section 17500) of Division 4, other nondiscretionary cost or

1 savings imposed on local agencies, and the cost or savings in  
2 federal funding to the state.

3 For purposes of this paragraph, “cost or savings” means  
4 additional costs or savings, both direct and indirect, that a public  
5 agency necessarily incurs in reasonable compliance with  
6 regulations.

7 (7) If a state agency, in proposing to adopt, amend, or repeal  
8 any administrative regulation, makes an initial determination that  
9 the action may have a significant, statewide adverse economic  
10 impact directly affecting business, including the ability of  
11 California businesses to compete with businesses in other states,  
12 it shall include the following information in the notice of proposed  
13 action:

14 (A) Identification of the types and size of businesses that would  
15 be affected.

16 (B) A description of the projected reporting, recordkeeping, and  
17 other compliance requirements that would result from the proposed  
18 action.

19 (C) The following statement: “The (name of agency) has made  
20 an initial determination that the (adoption/amendment/repeal) of  
21 this regulation may have a significant, statewide adverse economic  
22 impact directly affecting business, including the ability of  
23 California businesses to compete with businesses in other states.  
24 The (name of agency) (has/has not) considered proposed  
25 alternatives that would lessen any adverse economic impact on  
26 business and invites you to submit proposals. Submissions may  
27 include the following considerations:

28 (i) The establishment of differing compliance or reporting  
29 requirements or timetables that take into account the resources  
30 available to differing size of businesses.

31 (ii) Consolidation or simplification of compliance and reporting  
32 requirements for differing size of businesses.

33 (iii) The use of performance standards rather than prescriptive  
34 standards.

35 (iv) Exemption or partial exemption from the regulatory  
36 requirements for differing size of businesses.”

37 (8) If a state agency, in adopting, amending, or repealing any  
38 administrative regulation, makes an initial determination that the  
39 action will not have a significant, statewide adverse economic  
40 impact directly affecting business, including the ability of

1 California businesses to compete with businesses in other states,  
2 it shall make a declaration to that effect in the notice of proposed  
3 action. In making this declaration, the agency shall provide in the  
4 record facts, evidence, documents, testimony, or other evidence  
5 upon which the agency relies to support its initial determination.

6 An agency's initial determination and declaration that a proposed  
7 adoption, amendment, or repeal of a regulation may have or will  
8 not have a significant, adverse impact on businesses, including the  
9 ability of California businesses to compete with businesses in other  
10 states, shall not be grounds for the office to refuse to publish the  
11 notice of proposed action.

12 (9) A description of all cost impacts, known to the agency at  
13 the time the notice of proposed action is submitted to the office,  
14 that a representative private person or business would necessarily  
15 incur in reasonable compliance with the proposed action.

16 If no cost impacts are known to the agency, it shall state the  
17 following:

18 "The agency is not aware of any cost impacts that a  
19 representative private person or business would necessarily incur  
20 in reasonable compliance with the proposed action."

21 (10) A statement of the results of the economic impact  
22 assessment required by subdivision (b) of Section 11346.3 or the  
23 standardized regulatory impact analysis if required by subdivision  
24 (c) of Section 11346.3, a summary of any comments submitted to  
25 the agency pursuant to subdivision (f) of Section 11346.3 and the  
26 agency's response to those comments.

27 (11) The finding prescribed by subdivision (d) of Section  
28 11346.3, if required.

29 (12) (A) A statement that the action would have a significant  
30 effect on housing costs, if a state agency, in adopting, amending,  
31 or repealing any administrative regulation, makes an initial  
32 determination that the action would have that effect.

33 (B) The agency officer designated in paragraph (14) shall make  
34 available to the public, upon request, the agency's evaluation, if  
35 any, of the effect of the proposed regulatory action on housing  
36 costs.

37 (C) The statement described in subparagraph (A) shall also  
38 include the estimated costs of compliance and potential benefits  
39 of a building standard, if any, that were included in the initial  
40 statement of reasons.

(D) For purposes of model codes adopted pursuant to Section 18928 of the Health and Safety Code, the agency shall comply with the requirements of this paragraph only if an interested party has made a request to the agency to examine a specific section for purposes of estimating the costs of compliance and potential benefits for that section, as described in Section 11346.2.

(13) A statement that the adopting agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. For a major regulation, as defined by Section 11342.548, proposed on or after November 1, 2013, the statement shall be based, in part, upon the standardized regulatory impact analysis of the proposed regulation, as required by Section 11346.3, as well as upon the benefits of the proposed regulation identified pursuant to subparagraph (C) of paragraph (3).

(14) The name and telephone number of the agency representative and designated backup contact person to whom inquiries concerning the proposed administrative action may be directed.

(15) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(16) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(17) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(18) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least

1 15 days prior to the date on which the agency adopts, amends, or  
2 repeals the resulting regulation.

3 (19) A statement explaining how to obtain a copy of the final  
4 statement of reasons once it has been prepared pursuant to  
5 subdivision (a) of Section 11346.9.

6 (20) If the agency maintains an Internet Web site or other similar  
7 forum for the electronic publication or distribution of written  
8 material, a statement explaining how materials published or  
9 distributed through that forum can be accessed.

10 (21) If the proposed regulation is subject to Section 11346.6, a  
11 statement that the agency shall provide, upon request, a description  
12 of the proposed changes included in the proposed action, in the  
13 manner provided by Section 11346.6, to accommodate a person  
14 with a visual or other disability for which effective communication  
15 is required under state or federal law and that providing the  
16 description of proposed changes may require extending the period  
17 of public comment for the proposed action.

18 (b) The agency representative designated in paragraph (14) of  
19 subdivision (a) shall make available to the public upon request the  
20 express terms of the proposed action. The representative shall also  
21 make available to the public upon request the location of public  
22 records, including reports, documentation, and other materials,  
23 related to the proposed action. If the representative receives an  
24 inquiry regarding the proposed action that the representative cannot  
25 answer, the representative shall refer the inquiry to another person  
26 in the agency for a prompt response.

27 (c) This section shall not be construed in any manner that results  
28 in the invalidation of a regulation because of the alleged inadequacy  
29 of the notice content or the summary or cost estimates, or the  
30 alleged inadequacy or inaccuracy of the housing cost estimates, if  
31 there has been substantial compliance with those requirements.

32 *SEC. 6. Section 4.5 of this bill incorporates amendments to*  
33 *Section 11346.3 of the Government Code proposed by both this*  
34 *bill and Assembly Bill 1711. It shall only become operative if (1)*  
35 *both bills are enacted and become effective on or before January*  
36 *1, 2015, (2) each bill amends Section 11346.3 of the Government*  
37 *Code, and (3) this bill is enacted after Assembly Bill 1711, in which*  
38 *case Section 4 of this bill shall not become operative.*

O